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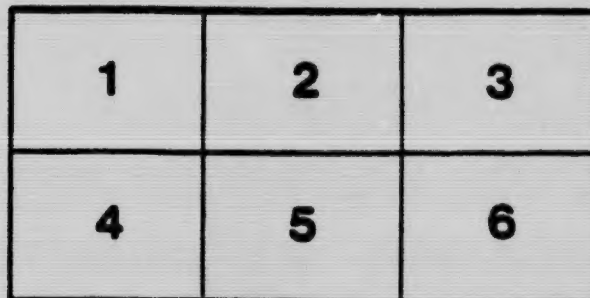
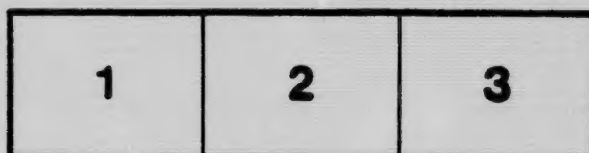
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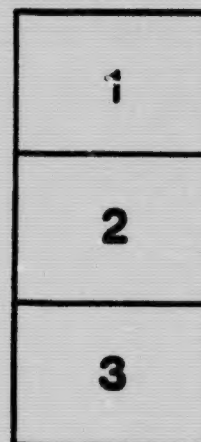
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28

The Municipal Loan Fund in Upper Canada

By

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XI.

THE MUNICIPAL LOAN FUND IN UPPER CANADA.

BY J. MUNHAY CLARK, M.A., LL.D., K.C., TORONTO.

The terrible collapse of Russia, where many of the pernicious fallacies, loudly advocated in Canada, were put into practice with disastrous results has, when rightly interpreted, many needed lessons for us. The conditions in Russia are, however, different from those in Canada, and the genius and traditions of the Slav quite different from those of the Anglo-Celt, so that perhaps we can learn more readily the lessons we need from our own long history and varied experiences.

Since the beginning of the present era of waste and extravagance I have often felt there is much to learn from the forgotten experience of our fathers with what was called the Municipal Loan Fund. The author of this disastrous scheme was Sir Francis Hincks, one of the outstanding public men of that day. He had in some respects genuine ability and, in matters which he understood, rendered considerable useful public service, but he was an idealist and a theorist without any practical grasp of the rigorous laws and unyielding facts of finance. He was patriotic and well-meaning, but his patriotism and good intentions did not save the country from the inevitable consequences of his scheme which those able to think clearly on matters of finance perceived from the beginning. He possessed in an eminent degree that fatal fluency of persuasive speech with which so many of our politicians are endowed, and swayed the people for whom he expressed, and probably felt, sincere devotion, with superficial catch-words and glittering generalities not founded on the stern realities of economic laws. The confidence he inspired only enabled him to do infinitely more mischief than would otherwise have been caused by his scheme, and did not protect the people from the losses and distress resulting from disregard of sound business principles.

The enterprise was inaugurated with great éclat on the 10th November, 1852, by the statute known to lawyers as 16 Victoria, Cap. 22, which provided credits for the municipalities of Upper Canada, now Ontario, on certain terms and conditions.

The municipalities were to pass by-laws which were advocated by the demagogues of that day.

Upon the passing of such a by-law as was provided for, the municipality borrowed the money specified from the Province which, in turn, borrowed from abroad. Those who warned the people that borrowed money would have to be repaid with interest were denounced as pessimists. By-laws were passed in many municipalities and those who shouted for lavish expenditures, for the time being, prevailed. It was not popular to point out that permanent prosperity could not be achieved by spending borrowed money. Indeed, as was said by an observant contemporary, no one in those days

could be elected a poundkeeper in certain parts of this Province unless, to use his own picturesque language, "he shouted with both hands for the Loan Fund."

The moneys were borrowed and spent but the day of inexorable reckoning duly arrived. Some municipalities could not, and some would not, pay the interest due the Province, but the Province had to pay the interest due its creditors and to raise the necessary funds by taxation. On the 1st January, 1873, less than twenty-one years after the scheme was started with a great hurrah, there were arrears amounting to \$12,628,657.05. We now talk in billions, but in those days debts amounting to over \$12,000,000 were serious. The municipalities where wise counsels prevailed, and which had not borrowed from the Fund, complained that they were compelled to pay heavy taxes to meet the interest on moneys in respect of which other municipalities were in default.

Speaking on the subject in 1873, Sir Oliver Mowat (Mr. Oliver Mowat he then was) said: "The effect was to diminish the value of municipal securities generally, and to corrupt the moral sense of the people with reference to moral obligations." Sir Oliver Mowat did not overlook the material loss, but rightly regarded the moral loss as tremendously more vital.

In several Ontario constituencies candidates appealed and, sad to relate, appealed successfully for support on the ground that they would defy the Government to collect the amount due in respect of such loans, and the disastrous habit was formed of repudiating just obligations.

This habit persists and fundamentally is of the same nature as the act of the Germans in regarding the Treaty guaranteeing the neutrality of Belgium as a "scrap of paper."

The United States Constitution forbids legislation impairing the obligation of a contract; but in Canada, apart from the power of Disallowance, the security against such vicious legislation depends largely on the "moral sense of the people with reference to moral obligations."

In dealing with this subject one of our ablest jurists made the significant remark that our Provincial Legislatures within the sphere of their jurisdiction "are bound by no law, human or divine." This constitutes an additional reason why the statesmanlike and sagacious observation of Sir Oliver Mowat should be studied by the present generation.

The injustice of making the thrifty and wisely guided municipalities pay for the default of those who had been misled by the demagogues of the day, was so keenly felt that the plan was devised of forgiving certain municipalities which had borrowed more moderately, reducing the indebtedness of those which had borrowed heavily, and of voting \$3,388,777.40 to be distributed among the other municipalities. The total net loss to what is now Ontario was over \$13,000,000, though the taxpayers had been solemnly assured the Province would not lose a cent.

Of the first class was the Town of Woodstock which borrowed \$100,000. The authoritative comment made about twenty years after in regard to Woodstock was "Its investment became an entire loss and the work in aid of which the stock was taken has been abandoned, and there is no probability it will ever be revived. The company is hopelessly insolvent and the whole undertaking has collapsed never to be revived."

The loss was assumed by the Province and the debt of Woodstock cancelled by the Municipal Loan Fund Act.

In the second class was St. Catharines which borrowed more heavily. Only part of its indebtedness was cancelled and the municipality had to pay the balance of \$160,571.57. The municipality loaned \$166,000 of borrowed money to six local companies. In the official return it is stated as to four of these, "No revenue derived and stock worthless." As to the fifth, the record is, "Road sold by Sheriff in 1862." All these enterprises which ended in disaster had been only ten years before confidently commended to the electors by those who guided the destinies of the municipality and boasted of their devotion to the interests of "the people."

Toronto was not affected by the prevailing madness of the time and did not borrow from the Municipal Loan Fund, and, in consequence, received a considerable sum (\$165,984.08) in the final distribution.

On inquiring as to the reason for this good fortune I find that in 1852 Mr. John George Bowes, a successful wholesale merchant, was Mayor of Toronto. Indeed, for many years thereafter the municipal affairs of Toronto were directed by men of high reputation and large calibre who each had made a success of his own business. The list of the Mayors of Toronto during those years included John Beverly Robinson, George William Allan, William Henry Boulton, Oliver Mowat and William Barclay McMurich, who each did his part in laying deep and true the foundations of Toronto's prosperity and greatness.*

In Hamilton, the demagogues of the day won, though the borrowing was not from the Government but from British investors. In less than ten years Hamilton made default and could not pay the coupons which matured on 1st July, 1861. This, it will be observed, is less than ten years after the by-laws authorizing the expenditures were carried with great enthusiasm.

The municipal authorities of Hamilton requested the Government of the Province of Canada, which then included what is now Quebec, to come to the rescue and to save the credit of the country. The interest was paid by the Government of the day. On the 6th March, 1893, the Dominion, as the successor of the late Province of Canada, filed a claim before the Board of Arbitrators appointed to deal with the accounts as between Ontario, Quebec and the Dominion arising out of Confederation; Ontario acknowledged liability for the amount which a few years later was paid by this Province, nearly half a century after the folly of the fifties.

There were further defaults, judgments were recorded against the corporation, and in 1863 Hamilton was in the hands of the Sheriff. The levying of a rate to pay its creditors was delayed by the zealous City Clerk who took the books, assessment rolls, etc., to White Sulphur Springs (now Clifton Springs) in the State of New York, beyond the jurisdiction of the Canadian Courts.

The time so secured was wisely utilized by the able City Solicitor, Mr. Burton, afterwards Mr. Justice Burton, who negotiated a compromise with its creditors afterwards embodied in "The City of Hamilton Debenture Act, 1864," 27-28 Vic., Chap. 72, assented to on 30th June, 1861. This Statute passed by the Parliament of the late Province of Canada recited a

*Some comments on the fundamental principles involved and on the relation of the developments to Socialism and Bolshevism, and to British ideals of liberty and justice, are omitted.

Petition of Hamilton representing that the City had issued debentures for £104,600 Sterling, and \$91,470 Currency, in all nearly a million dollars for various objects "which from various causes have proved to be unremunerative;" also debentures for about another million dollars, for waterworks (substantially constructed under the direction of the late Mr. T. C. Keefer), and for "other local improvements from none of which is any adequate return at present received." The Petition of Hamilton stated that there were "considerable arrears of interest," "judgments," "much litigation," and that "the finances of the Corporation have consequently become embarrassed."

The Statute authorized debentures payable in 30 years (1894) at a reduced rate of interest (gradually, however, to be increased) which the creditors, or at least a majority of them, were willing to accept.

By the City of Hamilton Debenture Act of 1893, 56 Vic., Cap. 65, the City of Hamilton was authorized to renew some of these debentures for a further period of 40 years i.e., until April, 1934.

An elaborate report on the Municipal Loan Fund prepared by the Hon. E. B. Wood, was presented to the Ontario Legislature and printed as Sessional Paper No. 8 of 35 Vic., 1871-2, and the details of the scheme by which the Fund was wound up appeared in the Sessional Papers of 1874, No. 13. Both of these historic Sessional Papers are worthy of careful study by all interested in, and especially by all responsible for the financial affairs of Ontario municipalities.

A few years after this closing of the matter, viz., in 1883, when the details were fresh in the minds of all, the results were described as follows: "Important sections of the Province were retarded in the march of improvement and property there was depreciated in value."

It is to be borne in mind that before the disastrous Municipal Loan Fund was inaugurated, Upper Canada was making steady and indeed rapid progress. It was being settled by an energetic population, and, before the retardation above referred to, was making as satisfactory progress as, for instance, Ohio. The fact that some Ontario municipalities have now to pay about double the rate of taxation in such Ohio cities as Cleveland, is a serious handicap in the keen competition we must shortly face.

Some of the lessons to be gathered from a consideration of the history of the Municipal Loan Fund are:

- (1) That moneys borrowed or guaranteed by municipalities as well as by individuals must be repaid, and with interest.
- (2) That permanent prosperity cannot be founded upon the extravagant expenditure of borrowed money.

At the present moment expenditures of public money are popular, and professional politicians, who can bring great pressure to bear upon the authorities, are able, in the present state of the public mind, to secure more votes by advocating the expenditure and waste of public moneys than by advocating the saving thereof. For the time being, economy is unpopular, but, judging from the experience above referred to, this will not last many years because the time for repayment of the moneys now being borrowed interest is arriving with sure and steady foot.

Many people are at present under a complete misapprehension as to the effect of such public debts and are acting under the delusion that they

can throw the burden of taxation upon other people. They forget that all taxes must, with exceptions which are not really important, be paid by the producers and consumers. The producers, in order to continue to produce, must throw the burden of such taxation on the consumers who ultimately must certainly pay. Sound reasoning should convince everyone that the burden of taxation caused by the prevailing extravagance will be seriously increased and that such taxation will inevitably increase the present high cost of living. This, however, will certainly appear by experience, and it may safely be stated that in a very short time extravagant expenditures of public money will not be popular in this country.

People have not yet sufficiently reflected on the fact that now, as in the days of the Municipal Loan Fund, as a general rule (of course there are exceptions) it costs a municipality or other public body from 30 to 60 per cent. more than a private company to do the same amount of work. One of the reasons for this is that a glib talker can often secure the management of public business without much regard to his competency.

An illuminating example of this occurred some years ago in Toronto. According to the opinion of an expert alienist, the speech of a candidate for the office of Mayor contained evidence of incipient insanity and the alienist predicted that the candidate would be in the asylum in so many months, and added that the speech containing the evidence of insanity would elect the candidate Mayor. The candidate was in an asylum within the time specified, and died there, but after the speech, animated by the undue optimism of incipient insanity, the voters elected him Mayor. The people of Toronto are still paying the penalty in the shape of burdensome taxation, and will continue to pay to the third and fourth generation.

Generally, people pay little heed to a waste of from 30 to 60 per cent., but do express some temporary alarm when there appears a waste of public money of from 90 to 95 per cent. of the amount expended. It is well, therefore, to emphasize that, as in the case of the Municipal Loan Fund, the grievous burden caused by such waste is largely borne by the small property owners and by consumers in general. Very few benefit by the waste of public money; but whether they realize it or not, the mass of the people ultimately pay and then wonder why the cost of living is so high. The cost of living must, if necessity, become higher and higher until the prevailing waste and extravagance are replaced by thrift and economy,* the excessive exodus from the farm to the city checked, indeed, superseded by a considerable movement from the city to the farm, and production, especially of foodstuffs, greatly increased. Sooner or later the majority of the people will discover that the plans of the agitators to throw the heavy burden of taxation on others are futile. We shall all, sooner or later, if not by logic, then by stern experience, learn that if we sow the wind we shall reap the whirlwind.

In the case of a private company the consequences of waste and extravagance speedily manifest themselves, and if competent management is not provided, insolvency ensues. There is no patient taxpayer to make good any deficits that may result from lack of foresight or energy, or from disregard of business principles. But economic laws are as inexorable as the laws of chemistry, and, after all, no more in public than in private matters

*This was written in May, 1919.

can people escape the consequences of their acts, and that is the real lesson of the Municipal Loan Fund.

Far-sighted men perceived the results of what was proposed, and warned the people. In the course of years what they said was proved true. Similar warnings now go unheeded; the exhortations of the Minister of Finance to "work and save," and similar warnings by his predecessor, Mr. Fielding, are by many (perhaps at present by the overwhelming majority) treated with unconcealed derision. We profit less than we should from the lessons of history, but we of this generation will again learn for ourselves that the consequences of waste and extravagance can by no devices be avoided.